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**United States Department of Agriculture**

**BUREAU OF AGRICULTURAL ECONOMICS**

**SERVICE AND REGULATORY ANNOUNCEMENTS NO. 143 REVISED<sup>1</sup>**

**GRADES, REQUIREMENTS, AND REGULATIONS OF THE  
SECRETARY OF AGRICULTURE FOR CARRYING OUT  
THE PROVISIONS OF THE EXPORT APPLE AND PEAR  
ACT OF JUNE 10, 1933 (48 STAT. 123, 7 U. S. C., SECS.  
581-589)**

UNITED STATES DEPARTMENT OF AGRICULTURE, OFFICE OF THE SECRETARY

By virtue of the authority vested in the Secretary of Agriculture by An act to promote the foreign trade of the United States in apples and/or pears, to protect the reputation of American-grown apples and pears in foreign markets, to prevent deception or misrepresentation as to the quality of such products moving in foreign commerce, to provide for the commercial inspection of such products entering such commerce, and for other purposes, approved June 10, 1933 (48 Stat. 123, 7 U. S. C. Secs. 581-589), making it unlawful to ship or offer for shipment or to transport or receive for transportation to any foreign destination any apples or pears in packages not accompanied by a certificate authorized by the Secretary of Agriculture showing that the apples or pears are of a Federal or State grade which meets the minimum of quality established by the Secretary of Agriculture for shipment in export, and that they comply with the requirements prescribed by the regulations under said act, I, H. A. Wallace, Secretary of Agriculture, do hereby prescribe the following grades, requirements, and regulations which shall supersede those heretofore issued.

**Regulation 1. Definitions**

Words used in these regulations in the singular form shall be deemed to import the plural, and vice versa, as the case may demand.

The following terms included in the act shall for the purpose of these regulations be construed to mean:

*Act.*—An act approved June 10, 1933 (48 Stat. 123, 7 U. S. C. Secs. 581-589), entitled "An act to promote the foreign trade of the United States in apples and/or pears, to protect the reputation of American-grown apples and pears in foreign markets, to prevent deception or misrepresentation as to the quality of such products moving in foreign commerce, to provide for the commercial inspection of such products entering such commerce, and for other purposes," and which will be referred to by the Department as the Export Apple and Pear Act.

*Person.*—Individuals, partnerships, corporations, and associations.

*Carriers.*—All common and private carriers, including trucks, vessels, tramp and chartered steamers whether carrying for hire or otherwise.

*Secretary.*—The Secretary of Agriculture of the United States.

*Foreign commerce.*—Commerce between any State, or the District of Columbia, and any place outside of the United States or its possessions.

*Apples and/or pears.*—Fresh whole apples or pears, whether or not they have been in storage.

*Certificate.*—This term means a statement that a designated lot of apples and/or pears meets the requirements of the Export Apple and Pear Act included in and made a part (1) of an Export Form Certificate issued under the

<sup>1</sup> This is a revision of S. R. A.—B. A. E. 143, approved August 31, 1933, effective September 1, 1933, as amended January 30, 1934, December 31, 1935, July 22, 1936, and July 28, 1937.

farm products inspection law (Annual Agricultural Appropriation Act) or (2) of a memorandum in a form approved by the Chief of Bureau and issued in lieu of an Export Form Certificate.

### Regulation 2. Administration

The Chief or Acting Chief of the Bureau of Agricultural Economics shall perform for and under the supervision of the Secretary such duties as the Secretary may require in enforcing the provisions of the act and of these regulations.

### Regulation 3

SECTION 1. The regulations of the Secretary under the farm products inspection law for the inspection and certification of fresh fruits and vegetables are hereby adopted for the purposes of the act except when in conflict with specific regulations herein set forth, and all persons authorized to issue certificates of grade and/or condition under the farm products inspection law are authorized to issue the certificates required for apples or pears under the act.

SEC. 2. Farm products inspection certificates bearing in prominent letters across the face the words "Export Form Certificate" shall be used only for apples or pears inspected and certified in accordance with the provisions of the act, and shall include the following statement either printed or typed: "The apples and/or pears covered by this certificate meet the requirements of the Export Apple and Pear Act."

SEC. 3. If the fruit is to be analyzed for spray residues and the chemist's report is not available at the time the inspection for grade is finished, the inspector may, if practicable, issue a certificate subject to being recalled and vacated within 48 hours should the chemical analysis show that the fruit does not comply with the tolerances for spray residues established under the Food and Drugs Act of June 30, 1906.

SEC. 4. If, at time of billing for shipment in export, a certificate shall have been issued under the provisions of the act, the original or a copy of such certificate on a form approved by the Chief of Bureau shall be delivered by the shipper or his agent to the initial carrier for delivery to the proper official of any vessel of any kind on which the apples or pears covered by the certificates are to be exported.

SEC. 5. *Paragraph 1.* A shipment of apples or pears shall not be accepted for export by any vessel of any kind unless accompanied by a certificate or a copy thereof on a form approved by the Chief of Bureau which shall be surrendered to the steamship company showing that such apples or pears meet the requirements of the act.

*Par. 2.* When a certificate has been issued covering a lot of apples or pears and the shipper desires to export part of the lot by one steamer or vessel of any kind, and part by another steamer or vessel of any kind, the original or a copy of the certificate on a form approved by the Chief of Bureau shall be furnished each steamship line, tramp or chartered steamer or vessel of any kind concerned.

*Par. 3.* No vessel of any kind shall accept for shipment a part of a lot of apples or pears upon the mere representation by the shipper or his agent or by the initial carrier that a certificate has been issued covering the entire lot but shall require that the original or a copy of such certificate on a form approved by the Chief of Bureau be furnished.

### Regulation 4

When shipments, except as provided under regulation 13, are made to foreign countries under a through bill of lading or under a bill of lading marked for export, the shipper shall secure inspection and deliver to the local agent of the carrier a copy of the Export Form Certificate or memorandum covering such shipment. The local agent shall attach the certificate or memorandum to the waybill or make a notation on the waybill that the fruit has been inspected and that such export certificate or memorandum has been issued.

Inspection of shipments not under through bill of lading to a foreign country or not under bill of lading marked for export may be obtained at point of origin if inspection is available, or at any convenient point en route or at destination.



### Regulation 5

Any person operating any vessel of any kind shall within 72 hours after sailing from any port send to the Chief of Bureau of Agricultural Economics, at Washington, D. C., a list of shipments of apples and/or pears on board such vessel which are not accompanied by certificates and shall give all particulars with reference thereto, including destination, quantity, description, marks, names and addresses of shippers and consignees and names of railroads or persons delivering such shipments to such vessels, with car numbers or other means of identification. The furnishing of such information shall not relieve such person from liability under the act if in the judgment of the Secretary the facts warrant prosecution.

### Regulation 6

Special certificates to comply with the requirements of foreign countries shall, as authorized by section 3 of the act, be issued as a part of, or in addition to, the farm-products inspection certificates. A reasonable additional fee may be charged when the inspection necessary for such certificates requires additional time or an examination or certification at some time or place other than that at which the original inspection was made.

### Regulation 7

A certificate issued under this act and these regulations does not excuse any person for failure to comply with all regulatory laws or requirements applicable to the products shipped. No certificate shall be issued under this act and these regulations except upon a showing satisfactory to the Chief of the Bureau of Agricultural Economics that the apples and/or pears comply with the tolerances for arsenical and lead spray residues established by the Department of Agriculture.

### Regulation 8

Minimum quality requirements for shipments in export:

(a) Any lot of apples must meet each minimum requirement of the United States Utility or United States Utility Early grade for apples subject to the tolerances for these grades except that apples shall not contain apple maggots and not more than 2 percent by count may have apple maggot injury and not more than 2 percent may be infested with San Jose scale, and except that any lot of apples in containers conspicuously marked "cannery" must meet each minimum requirement of U. S. No. 2 for cannery apples subject to a tolerance of 10 percent for defects of this grade.

(b) Any lot of pears must meet each minimum requirement of the United States No. 2 grade for pears subject to the tolerances for this grade except that in case of pears in containers conspicuously marked "cannery" blemishes affecting only the surface of the fruit shall not be considered "serious damage" as this requirement is defined by said grade, and that pears other than those designated "cannery" shall not contain apple maggots and not more than 2 percent by count may have apple maggot injury and not more than 2 percent may be infested with San Jose scale.

(c) Any lot of apples or pears shipped to a trans-Pacific port, except as provided in regulation 13, need not comply with the maturity standards of these grades if the packages are conspicuously marked or branded with the words "Immature fruit."

### Regulation 9

Packing and marking requirements for shipments in export.—(a) The packages shall be plainly and conspicuously marked with (1) the name and address of the grower or packer; (2) the variety; (3) the grade names not lower than those specified in regulation 8; and (4) the numerical count or the minimum size. (b) Each package shall be packed so that the apples and/or pears in the shown face shall be reasonably representative in size, color, and quality of the contents of the package.

### Regulation 10

The fee for a certificate issued under the act shall be the fee charged at that time and place where the certificate is issued for an inspection made under the farm products inspection law: *Provided*, That when any lot of apples and/or pears arrives at any terminal market or point of export covered by a farm-products inspection certificate which shows that the fruit meets the requirements of the act a certificate complying with the terms of the act may be substituted for such farm-products inspection certificate or the same may be stamped with the words "Export Form Certificate" for a fee of \$1.

### Regulation 11

Upon receipt of complaint from any person alleging that any apples and/or pears have been shipped in foreign commerce in violation of any of the provisions of the act, the Secretary shall cause such investigation of the facts to be made as he deems proper. If in his opinion there has been a violation of the act, he shall inform the party accused of the nature of the charges against him and of the specific cases in which violation of the act is charged. He shall give the party accused an opportunity for a hearing not less than 10 days after notice of such hearing has been served upon such person. At such hearing the person complained of shall be entitled to be present in person or by counsel and submit evidence and arguments in his behalf. Any order issued by the Secretary to withhold the issuance of certificates from such person as provided in section 6 of the act shall be effective from the date of its service upon the party found to have been guilty of such violation of the terms of the act. Such order shall state the inclusive dates within which it is to remain in effect, and during this period no person employed or licensed by the Secretary as an inspector for purposes of the farm products inspection law shall issue to such person any certificate as to compliance with the provisions of the act.

### Regulation 12

Service of any notice or order required by the act or prescribed by these regulations shall be deemed sufficient if made by registered mail or personally upon the person served. Service so made upon any member of a partnership or any officer of an association or corporation shall be sufficient. If it is impossible to make personal service upon the party named in the notice or order, service may be made by leaving a copy thereof with an employee or agent at such party's usual place of business or abode. If the party so named is a partnership, association, or corporation, service may be made likewise with respect to any member of the partnership or any officer, employee, or agent of the association or corporation.

### Regulation 13

Any shipment of apples and/or pears of less than 400 bushels in packages is hereby defined as a less-than-a carload quantity for the purposes of the act. Such shipments to Canada, Bahamas or the Bermuda Islands, Cuba, the West Indies, Mexico, or any country in Central America or South America except Argentina, or to any African port not on the Mediterranean Sea, or to any trans-Pacific port, need not comply with the requirements of the act: *Provided*, That shipments of less than 200 pounds gross weight to any foreign destination shall not be subject to the provisions of this act.

IN WITNESS WHEREOF I have hereunto set my hand and caused the official seal of the Department of Agriculture to be affixed hereto, in the city of Washington, D. C., this 30th day of March 1938.

[SEAL]

*Hawallace*  
Secretary of Agriculture.

## TEXT OF THE ACT

(48 Stat. 123, 7 U. S. C. Secs. 581-589)

To promote the foreign trade of the United States in apples and/or pears, to protect the reputation of American-grown apples and pears in foreign markets, to prevent deception or misrepresentation as to the quality of such products moving in foreign commerce, to provide for the commercial inspection of such products entering such commerce, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That it shall be unlawful for any person to ship or offer for shipment or for any carrier, or any steamship company, or any person to transport or receive for transportation to any foreign destination, except as provided in this Act, any apples and/or pears in packages which are not accompanied by a certificate issued under authority of the Secretary of Agriculture showing that such apples or pears are of a Federal or State grade which meets the minimum of quality established by the Secretary for shipment in export. The Secretary is authorized to prescribe, by regulations, the requirements, other than those of grade, which the fruit must meet before certificates are issued. The Secretary shall provide opportunity, by public hearing or otherwise, for interested persons to examine and make recommendation with respect to any standard of export proposed to be established or designated, or regulation prescribed, by the Secretary for the purposes of this Act.

SEC. 2. The Secretary shall give reasonable notice through one or more trade papers of the effective date of standards of export established or designated by him under this Act: Provided, That any apples or pears may be certified and shipped for export in fulfillment of any contract made within six months prior to the date of such shipment if the terms of such contract were in accordance with the grades and regulations of the Secretary in effect at the time the contract was made.

SEC. 3. Where the government of the country to which the shipment is to be made has standards or requirements as to condition of apples or pears the Secretary may in addition to inspection and certification for compliance with the standards established or designated hereunder inspect and certify for determination as to compliance with the standards or requirements of such foreign government and may provide for special certificates in such cases.

SEC. 4. Apples or pears in less than carload lots as defined by the Secretary may, in his discretion, be shipped to any foreign country without complying with the provisions of this Act.

SEC. 5. For inspecting and certifying the grade, quality, and/or condition of apples and/or pears the Secretary shall cause to be collected a reasonable fee which shall as nearly as may be cover the cost of the service rendered: Provided, That when cooperative arrangements satisfactory to the Secretary, or his designated representative, for carrying out the purposes of this Act cannot be made the fees collected hereunder in such cases shall be available until expended to defray the cost of the service rendered, and in such cases the limitations on the amounts expended for the purchase and maintenance of motor-propelled passenger-carrying vehicles shall not be applicable: Provided further, That certificates issued by the authorized agents of the United States Department of Agriculture shall be received in all courts of the United States as prima facie evidence of the truth of the statements therein contained.

SEC. 6. After opportunity for hearing the Secretary is authorized to refuse the issuance of certificates under this Act for periods not exceeding ninety days to any person who ships or offers for shipment any apples and/or pears in foreign commerce in violation of any of the provisions of this Act. Any person or any common carrier or any transportation agency knowingly violating any of the provisions of this Act shall be fined not less than \$100 nor more than \$10,000 by a court of competent jurisdiction.

SEC. 7. The Secretary may make such rules, regulations, and orders as may be necessary to carry out the provisions of this Act, and may cooperate with any department or agency of the Government, any State, Territory, District, or possession, or department, agency, or political subdivision thereof, or any person, whether operating in one or more jurisdictions; and shall have the power to appoint, remove, and fix the compensation of such officers and employees not in conflict with existing law, and make such expenditures for rent outside the District of Columbia, printing, binding, telegrams, telephones, law books, books



of reference, publications, furniture, stationery, office equipment, travel, and other supplies and expenses including reporting services, as shall be necessary to the administration of this Act in the District of Columbia and elsewhere, and as may be appropriated for by Congress. This Act shall not abrogate nor nullify any other statute, whether State or Federal, dealing with the same subjects as this Act; but it is intended that all such statutes shall remain in full force and effect except in so far as they are inconsistent herewith or repugnant hereto.

SEC. 8. If any provision of this Act or the application thereof to any person or circumstances is held invalid, the validity of the remainder of the Act and of the application of such provision to other persons and circumstances shall not be affected thereby.

SEC. 9. That when used in this Act—

(1) The term "person" includes individuals, partnerships, corporations, and associations.

(2) The term "Secretary of Agriculture" means the Secretary of Agriculture of the United States.

(3) Except as provided herein, the term "foreign commerce" means commerce between any State, or the District of Columbia, and any place outside of the United States or its possessions.

(4) The term "apples and/or pears" means fresh whole apples or pears, whether or not they have been in storage.

Approved, June 10, 1933.





